THE HON'BLE MR. JUSTICE S. ANANDA REDDY

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W.P.No. 9746 of 2005

Dated: August 2, 2005

Between:

Y. Shanthanna, S/o. Kurmaiah, 45 years,

0ccu: Telecom Mechanic, R/o. Q.No.D-10,

Telecom Staff Quarters, Tolichowki, Hyderabad

And 9 others.

…Petitioners

and

The Union of India, rep. by its

Secretary, Telecommunications,

20, Ashok Road, New Delhi & two others.

…Respondents

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O R D E R:

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This Writ Petition is filed by the petitioners seeking writ of mandamus declaring the action of the respondents in not extending the benefit of the judgment passed by the Central Administrative Tribunal, Hyderabad in O.A.No.1966 of 1999, dated 09.08.2000, as confirmed by this Court in W.P.No.14744 of 2001, dated 16.10.2001 to the petitioners, as illegal, discriminative and violative of the provisions of Constitution of India.

2. According to the petitioners, they were appointed as 'Telegraph Man' in the erstwhile Department of Telecommunications, and later were promoted as Telegraphman Grade-II, and subsequently as Telecom Mechanics on different dates. It is stated that as per the recommendations of the 'V Central Pay Commission', the cadre of Telegraphicman was in the Group-D, which was recommended for up-gradation of the scale of Rs.2750-4400 to the cadre of Telegraphman with effect from 01.01.1996, while declaring the cadre belongs to Group-C, and the same was implemented. It is further stated that the Department of Telecommunications introduced a cadre-restructuring scheme on 16.10.1990, as a result of which a new structured cadre i.e., Phone Mechanic i.e., Telecom Mechanic was introduced. This new cadre was placed in the pay scale of Rs.4000-6000. As the said benefit of the scale of pay was not extended to the petitioners, some of the petitioners have approached the Central Administrative Tribunal, Hyderabad by filing O.A.No.1966 of 1999, which was allowed, and when the said order was assailed before this Court, this Court confirmed the said order of the Tribunal holding that within the Group-C Cadre there cannot be two scales of pay basing on their source of promotion or recruitment.

3. At the time of hearing, the learned counsel for the petitioner also placed a judgment of this Court in *M.S.Bhaskar & Others vs. The General Manager, Telecom, Cuddapah & Others (W.P.No.24509 of 2005 & Batch)* where a batch of writ petitions were disposed of by an order dated 14.06.2005 directing the respondents to place the petitioners in the scale of pay Rs.4000-6000. However, the claim of the petitioners was restricted prospectively granting the benefit only from 01.01.2005 while granting the benefit notionally from the date of their entitlement. Therefore, the petitioners sought for a similar relief.

4. Heard the learned counsel for both the parties and considered the material on record.

5. In a similar matter in *W.P.No.14744 of 2001,* a Division Bench of this Court while confirming the order of the Central Administrative Tribunal passed the following order, dated 16-10-2003: -

" *When once the restructured cadre has been introduced and in the said restructured cadre various persons were brought into the main stream, they have to be treated equally for all purposes including the scales of pay and other promotional prospects. Allowing the higher pay scales to certain employees in the re-structured cadre and denying the same to other persons when they are holding the same post viz., Phone Mechanics, would amount to discrimination. It is to be noted that when re-structured Group-C cadre formed a homogeneous group, there cannot be discrimination while giving higher pay scales to the employees in Group-C cadre. Either it must be extended intoto or denied intoto, but the discrimination cannot be meted out on the ground that earlier to restructuring the respondents were holding group-D cadre and that group-C cadre itself is a promotional cadre. We do not find any nexus to the object sought to be achieved by carving out invidious discrimination. Converting homogenous group into heterogeneous without discernible criteria attracts the Wrath of Article 14 of Constitution of India. Thus, we are in agreement with the conclusions reached by the Tribunal and we do not find any infirmity or illegality in the order of the Tribunal. We find no merits in the Writ Petition, and the same is dismissed."*

6. Following the above judgment, this Court allowed another Batch of writ petitions, but, however confining the relief notionally from the date of their respective entitlements and the monetary benefit from 01.01.2005. The petitioners herein also placed in the same position.

7. Therefore, the Writ Petition is disposed of directing the respondents to grant the benefit of pay scale of Rs.4000-6000 to the petitioners notionally from the date of their entitlement while granting the monetary benefit from 01.01.2005.

8. The Writ Petition is accordingly disposed of. No costs.

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S.Ananda Reddy, J.

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